

Appl. Serial No. 10/018,716
Amdt. Dated February 6, 2007
Response to Office Action of December 22, 2006

REMARKS

The Applicants graciously thank the Examiner for the telephonic interview on February 2, 2007 where we discussed the claims of the application.

Claims 1, 2, 4, and 6-30 remain under active prosecution in the present application. Claims 1, 6, and 9 have been amended. Claims 3 and 5 have been canceled. Applicants respectfully assert that all amendments are supported by the original disclosure and do not introduce new matter. Moreover, Applicants further respectfully assert that the amendments merely clarify the scope of the claims.

In the subject Office Action dated December 22, 2006, the Examiner rejected pending claims 1-3, 6-30 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement by introducing new matter. This rejection is addressed in full herein. The Examiner objected to claims 4 and 5 for being dependent upon a rejected base claim, but would be allowable if rewritten in independent form.

Claim Objections

The Examiner objected to claim 9 because of the following informalities: applicants use the term "complimentary to the transcript". It appears as if the phrase that was intended was — complementary --.

Claim 9 has been amended, removing the word "complimentary" and replacing it with the word "complementary."

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Claim Rejections

The Examiner has rejected claims 1-3, 6-30 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The Examiner has rejected claims 1-3, 6-30 because the specification does not teach that the oligomer can be 8-12 contiguous nucleotides from these sequences (SEQ ID NO: 1, 2, 3 or 4) and therefore, the limitation of adding "the antisense oligonucleotide comprises at least 8 (or 12) contiguous nucleotides of a sequence" is impermissible NEW MATTER. As per our discussion, claim 1 has been amended to remove the new matter; it no longer includes the limitation of "wherein the antisense oligonucleotide comprises at least 8 contiguous nucleotides of a sequence selected from the group consisting of SEQ ID NO: 1, SEQ ID NO:2, SEQ ID NO:3, and SEQ ID NO:4," and from our discussion is believed to be allowable. Claim 3, which contains similarly rejected language has been canceled.

The Examiner states that claims 4 and 5 are allowable if written so as not to be dependent on a rejected base claim. As discussed above, amended claim 1 contains all the limitations of claim 5, and no longer contains new matter, so is believed to be allowable. Claim 5 has been canceled. Claim 4 is now dependent on allowable claim 1, so does not require amendment, and should also be allowable. All other pending claims are now dependent on an allowable claim and so are all believed to be allowable.

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CONCLUSION

In light of the amendments and remarks made herein, it is respectfully submitted that the claims currently pending in the present application are in form for allowance. Accordingly, reconsideration of those claims, as amended herein, is earnestly solicited. Applicants encourage the Examiner to contact their representative, Scott R. Conley at (513) 651-6818 or srconley@fbtlaw.com.

The Commissioner for Patents is hereby authorized to charge any deficiency or credit any overpayment of fees to Frost Brown Todd LLC Deposit Account No. 06-2226.

Respectfully submitted,

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